

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-16-08)
COLLIN AND TREENA MITTS
JUNE 21, 2016

This is a report to the Flathead County Board of Adjustment regarding a request from Collin and Treena Mitts, for a conditional use permit to establish a 'Home Based Business' in order to store installation equipment in a detached garage on the subject property. The property is located within the LaBrant-Lindsey Lane Zoning District and is zoned 'LaBrant-Lindsey Lane.'

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on July 5, 2016 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

This space is reserved for an update regarding the June 27, 2016 LaBrant-Lindsey Lane Land Use Advisory Council.

B. Board of Adjustment

This space is reserved for an update regarding the July 5, 2016 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Landowner and Applicant

Collin and Treena Mitts
760 LaBrant Road
Kalispell, MT 59901

B. Property Location and Size

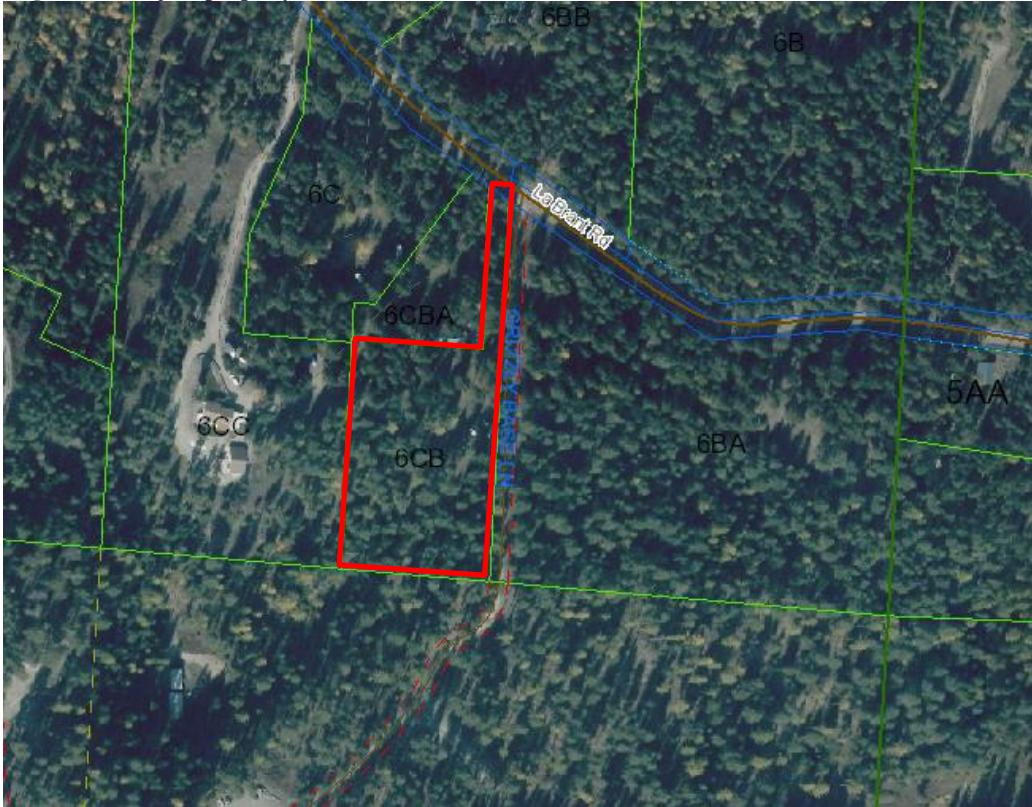
The subject property is located at 760 LaBrant Road north of Echo Lake, south of Many Lakes, and east of Hwy 35. (see Figure 1 below). The property is approximately 2.4 acres in size and can be legally described as Tract 6CB in Section 36, Township 28 North, Range 20 West, P.M.M., Flathead County, Montana.

C. Existing Land Use(s) and Zoning

The property is located within the LaBrant-Lindsey Lane Zoning District and is zoned 'LaBrant-Lindsey Lane.' LaBrant-Lindsey Lane is defined as, *"Implement the LaBrant/Lindsey Lane Neighborhood Plan by protecting the water quality, rural character and openness of the neighborhood and by providing guidance for future development"* [Section 3.39.010 FCZR].

The property is currently contains the applicant's house, and a detached garage/shop building. The property is wooded and relatively flat.

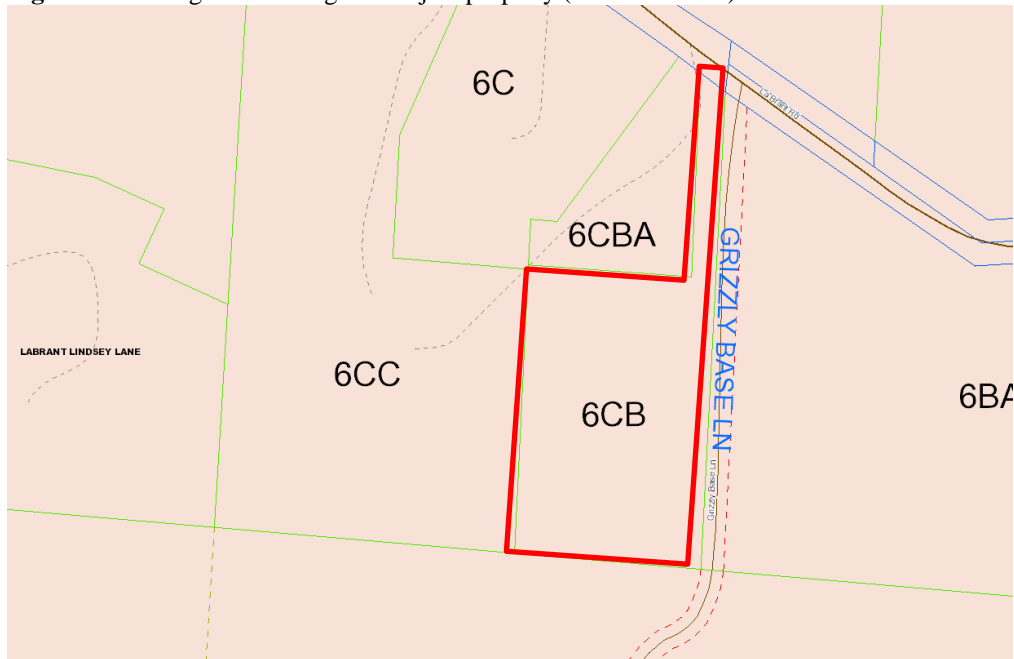
Figure 1: Subject property (outlined in red)



D. Adjacent Land Use(s) and Zoning

The properties to the north, south, east and west that surround the subject property are similarly zoned LaBrant-Lindsey Lane. The general character of the surrounding area is large lot residential.

Figure 2: Zoning surrounding the subject property (outlined in red)



E. Summary of Request

The applicant is requesting a conditional use permit for a 'home based business' in an accessory structure on the subject property for an insulation business on the subject property. The review of which is subject to specific guidelines set forth under Section 2.06.080 FCZR regarding criteria for the issuance of a conditional use permit and the performance standards for a home occupation found in Section 5.06 FCZR.

Per Section 3.39.120(2), a Home Based Business is defined as "*A home occupation that proposes any of the following: a) employs more than one non-resident employee; b) that uses outbuildings (detached garage, shed, barn, shop, etc.) for principal business activity; c) or in the case of a home-based service business, where the business sells products that are directly related to the service provided (for example, a small engine repair business that sells spark plugs, filters, oil or other parts associated with a repair). (See Home Occupation below.)*" Because there are no performance standards for a 'home based business' outline in FCPZ, the performance standards for 'home occupation' will be used. This is based on the reference to 'home occupation' in the definition of 'home based business.'

Per Section 7.09.020 a 'Home occupation' is defined as, "*Any use conducted entirely within the dwelling and carried on by the members of the family which use is clearly incidental and secondary to the dwelling for dwelling purposes and does not change the character thereof and in connection therewith are no commodities sold from the premises except that which is produced thereof, except as provided for in Section 5.06. Such uses may include, but are not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts provided that the use does not involve more than one-third of the total square footage of the dwelling.*"

According to the site plan submitted the home occupation would occur in a detached accessory building. Therefore, the applicant is requesting a conditional use permit to allow the use of an accessory structure to be used for a home occupation, per Section 3.39.120(2)(b).

F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on June 15, 2016, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application will be published in the June 19, 2016 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on May 27, 2016:

- Flathead County Solid Waste (FCSW)
 - Reason: The property is located within the department's jurisdiction and has the potential to impact county facilities.
- Creston Volunteer Fire District
 - Reason: The property is located within the department's jurisdiction and has the potential to impact Creston Fire Department response times.
- Flathead City-County Environmental Health Department
 - Reason: The property is located within the department's jurisdiction.
- Flathead County Road and Bridge Department
 - Reason: The property is located within the department's jurisdiction and could impact County infrastructure.

- State Building Department
 - Reason: The applicant is proposing to use an existing building for commercial use and modification may be required to meet state building codes for a commercial structure.
- Flathead County Weeds and Parks Department
 - Reason: The property is located within the department's jurisdiction and new activity could lead to the development of weeds on the subject property.
- Bonneville Power Administration
 - Reason: The BPA has requested a copy of all agency referrals.

III. COMMENTS RECEIVED

A. Public Comments

To date, no written public comments have been received. It is anticipated any individual wishing to provide verbal comment on the proposal will do so during the public hearing scheduled for July 5, 2016. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: "In reviewing the proposed plan, it appears this request will not affect any BPA facilities located within this area. BPA does not have any objections to the approval of this request at this time" Email dated June 2, 2016.
- Flathead City-County Health Department
 - Comment: "We have no objection to the issuance of the Conditional Use Permit. No water service or wastewater is proposed from the shop. Employees will not utilizing the site and the public will not visit the facility. The property has an existing Certificate of Subdivision Approval (COSA) EQ# 15-1401 which approves the use of the property for one individual dwelling unit. Should the scope of use change from this application, the COSA must be amended for the addition of the business." Letter dated June 15, 2016
- Creston Fire District
 - Comment: "From an Emergency Services perspective, the two things to address are related to ingress and egress. First, it is very important that the street address be visible (day and night) in a minimum of 4" Reflective numbers. The second concern is that, given this location on a busy road, that trees and brush be kept cleared away from the entrance to the property, giving clear visibility both directions as trucks enter and exit the property—part of this is adequate width of the driveway that allows for larger truck traffic to travel safely. Lastly the need for a well maintained driveway that allows for emergency vehicle access is critical."
 - As stated, this proposal does not appear to create undue hardship on Creston Fire District.
- State Building Department
 - Comment: "it is determined that the project as presented at the location

identified at the address 760 Labrant Road – Kalispell, MT 59901 is within the jurisdiction of the Building Codes Bureau at the Department of Labor and Industry. As such, applicable permits are required... The department has jurisdiction over building, electrical, plumbing/mechanical, boiler and elevator permits for all commercial projects.” Letter dated June 14, 2016

- Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated June 1, 2016

IV. CRITERIA REQUIRED FOR CONSIDERATION

Per Sections 2.06.080 and 2.06.100 of the Flathead County Zoning Regulations, what follows are criteria required for consideration of a Conditional Use Permit and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate Usable Space

The subject property currently contains a house and a detached garage/shop building. The applicant is applying to use the shop for the home occupation. The lot is approximately 2.4 acres with LaBrant-Lindsey Lane zoning designation. The existing shop on the property is 36 feet by 50 feet and covers approximately 1,800 square feet. The applicant states “we would like to use ½ our shop to store insulation material (inside). Nothing will show from outside the structures.”

The minimum yard setbacks for structures within the LaBrant-Lindsey Lane zone are 20 feet from any public or private road right-of-way, and 50 feet from any lake/perennial stream. The existing buildings appear to meet applicable setback requirements, based on the submitted site plan.

ii. Adequate Access

The subject property is located off of LaBrant Road. LaBrant Road is a paved two lane local county collector road within a 60 foot easement. Access is via a private 20 foot wide driveway off of LaBrant Road. LaBrant Road is a county maintained paved road. The driveway provides excellent site distance and adequate width for the use.

Outlined in Section 6.16 FCZR are street and roadway standards for “access to businesses, service stations, roadside stands, public parking lots and all other business requiring motor vehicle access shall meet the requirements as hereinafter provided or as applicable of the Montana Department of Transportation or Flathead County Road and Bridge Department (whichever requirements are more stringent).” According to the standards “No roadway shall be less than 10 feet wide for one-way traffic, or 20 feet wide for two-way traffic” [FCZR 6.16.020(3)]. The required 20 foot wide private driveway for two way traffic appears to be met.

Figure 3: Access off of LaBrant Road



iii. Absence of Environmental Constraints

The subject property is relatively flat with no significant elevation changes and is located on FEMA FIRM panel 30029C1865J. The lot is designated as un-shaded Zone X. The un-shaded Zone X is classified as an area determined to be outside the 0.2% annual chance floodplain. There are no wetlands, streams, or creeks located on the property, and there appears to be no other environmental constraints.

Finding #1: The site appears suitable for the home occupation because the existing structures meet applicable lot size and dimensional requirements, and it appears to have adequate access via a paved county collector road.

B. Appropriateness of Design

i. Parking Scheme

The applicant states, “We NEVER have customers or clients at our property. We do not have employees that park on our property.” The driveway and parking area are currently gravel and the application does not indicate that it will be paved. Section 6.02.010 FCZR requires 2 parking spaces per dwelling unit and Section 6.10 FCZR requires 1 parking space per 2 employees. The shop currently has no employees and the property currently contains a single family dwelling. The application indicates they would like to occasionally park a box truck on the property. At minimum, 3 parking spaces are required for the home based business and dwelling unit. Based on staff’s site visit and site plan, there is adequate parking in the existing driveway.

ii. Traffic Circulation

The subject property is located on LaBrant Road. LaBrant Road is a paved two lane county collector road within a 60 foot easement. The existing driveway will be utilized by the home occupation. The existing approach is off of LaBrant Road and as the applicant states, “we have great drive thru access on our lot. Our plan is not to increase traffic more than 12-15 deliveries a year.” The existing access would continue to provide ingress and egress to the property.

iii. Open Space

The subject property currently contains a residence and a shop building. The lot is approximately 2.4 acres. In the LaBrant/Lindsey zone the required open space is 75%. The dwelling and the residence currently occupy 3.4% of the 2.4 acre lot. The existing shop that will be used for the home occupation on the property is 36 feet by 50 feet and covers approximately 1,800 square feet. The insulation storage will occupy approximately half of the 1,800 square foot shop. The area of property is used for the Mitts' home and other personal space. Based upon staff's site visit and the submitted site plan, it appears the subject property has adequate open space to accommodate the existing buildings.

Finding #2: The parking, traffic circulation, and open space, appears to be adequate for the proposed use because the gravel parking area appears to meet applicable parking standards, allow for adequate traffic circulation, and has adequate open space.

Fencing/Screening

The applicant states "we would like to use ½ our shop to store insulation material (inside). Nothing will show from outside the structures." The Mitts have planted a number of 14 foot trees for privacy on their property between the neighboring lot and the shop. The zoning designation and home occupation standards do not require any fencing or screening. All fencing constructed shall comply with Section 5.04 FCZR.

iv. Landscaping

No landscaping is required for the home occupation based on the applicable performance standards. The subject property is currently used as personal space and is landscaped similar to single family dwellings in the vicinity.

v. Signage

Section 5.06.020(1)(B)FCZR of the home occupation performance standards states, "*Exterior signs shall be restricted to those permitted in the district in which the home occupation is located.*" The applicant states "We would like to be able to put a business sign out front with our personal address information, but it is something we can do without if it causes neighbors distress." There are no sign standards outlined within the LaBrant-Lindsey Lane zone. The sign standards that would be the best fit for the LaBrant-Lindsey Lane zone was found in Section 5.11.040(1) *Permitted signs in AG-80, AG-40, AG-20, SAG-10, SAG-5, CCC-1, AND CCC-2.* The applicant would be permitted to have "*One freestanding sign plus one wall sign for each place of business; the sign area shall not exceed 40 square feet*" per Section 5.11.040(1)(B) FCZR. The applicant would also be allowed "*Up to eight rural direction signs per property on a signpost not to exceed 12 feet in height.*" per Section 5.11.040(1)(C) FCZR. All signage constructed on the subject property would be required to be in compliance with Section 5.11.040(1) FCZR. Additionally, the applicant will submit an affidavit stating the home occupation will comply with this criterion.

vi. Lighting

Only minimal yard lighting associated with rural residential uses is present on the subject property. The applicants do not operate their business outside or in the evening and do not propose any additional lighting. Any additional exterior lighting would be required to comply with the performance standards outlined in FCZR Section 5.12, which require that, "*All porch and yard lighting shall be hooded, screened or directed in a manner such that the light source or the diffuser emitting the light shall not be*

deleterious to the adjoining property owners or occupants.”

Finding #3 – The signage and lighting on the subject property appear adequate because the applicant is willing to adhere to Flathead County zoning regulations regarding signage and lighting.

C. Availability of Public Services and Facilities

i. Sewer

The home based business will not require sewer services. The house is served by an approved septic system. Comments from the Flathead County Environmental Health Department state, “We have no objection to the issuance of the Conditional Use Permit. No water service or wastewater is proposed from the shop. Employees will not utilizing the site and the public will not visit the facility. The property has an existing Certificate of Subdivision Approval (COSA) EQ# 15-1401 which approves the use of the property for one individual dwelling unit. Should the scope of use change from this application, the COSA must be amended for the addition of the business.”

ii. Water

The applicant is proposing to utilize an existing individual well for the dwelling and the home occupation. Water is provided by a private well. The proposed use of the property for storage of insulation equipment is not a use that requires water consumption beyond what is typical of a single family residence. Comments from the Flathead County Environmental Health Department state, “We have no objection to the issuance of the Conditional Use Permit.”

iii. Storm Water Drainage

Currently storm water run-off is handled through on-site absorption and will continue to be handled through on-site absorption in the future. The applicant shall contact the Flathead City-County Environmental Health Department to determine if review will be required.

Finding #4 – The proposed use would have no impact on public water and sewer utilities because the subject property currently utilizes individual water and septic systems, and proposed changes to the water and sewer systems would require re-review and permitting by the Flathead City-County Health Department and the Department of Environmental Quality.

iv. Fire Protection

The subject property is served by the Creston Rural Fire District, and is located approximately 5.5 miles southeast of an existing fire station. Due to the close proximity to the fire station, it is anticipated response times in the event of an emergency would be reasonable.

v. Police Protection

The property would be served by the Flathead County Sheriff’s Department. The application states, The Sheriff’s Office is located in Kalispell and depending on the number of officers on duty and where they are at any given time will dictate the response time. The small insulation business that stores insulation equipment would likely have minimal impact on the Flathead County Sheriff’s Offices.

vi. Streets

The subject property is located on and accessed from LaBrant Road. LaBrant Road is a paved, two lane county collector road within a 60 foot easement. Comment from the

Flathead Road and Bridge Department states, “At this point the County Road Department does not have any comments on this request.” It appears that the road is adequate to serve the proposed use.

Finding #5 – The proposed use appears to have acceptable impacts on streets, and police and fire protection because the Creston Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by LaBrant Road.

D. Immediate Neighborhood Impact

i. Excessive Traffic Generation

The subject property is located on LaBrant Road. The existing approach is off of LaBrant Road and as the applicant states, “we have great drive thru access on our lot. Our plan is not to increase traffic more than 12-15 deliveries a year.” The existing access would continue to provide ingress and egress to the property. The Flathead County Zoning Regulations allow up to 16 vehicle trips per day without triggering the conditional use permit (FCZR Section 5.06.020(1)(E)). Traffic generated by the proposed use would have a minimal impact on the neighborhood.

ii. Noise or Vibration

The application states, “Noise would be a matter of loading and unloading materials, very minimal.” It is anticipated that the proposed home occupation would not generate noise and vibrations due to the fact of the shop building being used as insulation supply storage.

iii. Dust, Glare or Heat

The proposed use is not anticipated to create any heat or glare that would adversely impact the neighborhood. The driveway and parking lot is graveled and as there are no clients visiting the property. Minimal dust is anticipated as the insulation business is only expecting 12-15 trips per year. This would not be out of character for the neighborhood because vehicles are expected to travel at slow speeds on the driveway.

iv. Smoke, Fumes, Gas, or Odors

The applicant states, no smoke, fumes, gas or odors will be generated by the proposed use. It is anticipated no smoke, fumes, gas or odors are to be generated by the proposed home occupation other than those typical of a residential neighborhood.

v. Inappropriate Hours of Operation

The applicant states “we don’t have hours. We come and go from work just like any other working household. Every once in a while, our business partner comes and gets the box truck. Deliveries would be required to be during normal business hours, between 8:00 am and 5:00 pm. The property is located in a residential area however the proposed hours of operation would be daytime hours and unlikely to impact the immediate neighborhood.

Finding #7 – The proposed hours of operation for access to the shop for plumbing supplies are not anticipated to negatively impact the neighborhood because the proposed hours of operation would be between 8:00 am and 5:00 pm.

E. ‘Home Occupation’ Performance Standards

Section 5.06.020 FCZR contains specific performance standards applicable to ‘home occupations,’ stating “*home occupations are permitted in any dwelling unit, subject to the following provisions:*

1. *All home occupations shall comply with the following standards:*
 - A. *No outdoor storage shall be permitted.*
 - The applicant has indicated in the application that outside storage will not occur.
 - The applicant will submit an affidavit stating the home occupation will comply with this criterion.
 - B. *Exterior signs shall be restricted to those permitted in the district in which the home occupation is located.*
 - There are no sign standards outlined within the LaBrant-Lindsey Lane zone. The sign standards that would be the best fit for the LaBrant-Lindsey Lane zone was found in Section 5.11.040(1) *Permitted signs in AG-80, AG-40, AG-20, SAG-10, SAG-5, CCC-1, AND CCC-2.* The applicant would be permitted to have “*One freestanding sign plus one wall sign for each place of business; the sign area shall not exceed 40 square feet*” per Section 5.11.040(1)(B) FCZR. The applicant would also be allowed “*Up to eight rural direction signs per property on a signpost not to exceed 12 feet in height.*” per Section 5.11.040(1)(C) FCZR. All signage constructed on the subject property would be required to be in compliance with Section 5.11.040(1) FCZR. Additionally, the applicant will submit an affidavit stating the home occupation will comply with this criterion.
 - C. *No home occupation shall be conducted in a manner which will be detrimental to the residential use of said residence or cause a nuisance to surrounding residences, because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.*
 - The applicant will submit an affidavit stating the home occupation will comply with this criterion.
 - Because of the minimal additional traffic generated with the home based business, it is not anticipated the amount of dust resulting from operation would create adverse amounts of dust beyond which are typically experienced within the neighborhood.
 - D. *Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or side yard.*
 - The applicant states, “We NEVER have customers or clients at our property. We do not have employees that park on our property.” The driveway and parking area are currently gravel and the application does not indicate that it will be paved. Section 6.02.010 FCZR requires 2 parking spaces per dwelling unit and Section 6.10 FCZR requires 1 parking space per 2 employees. The shop currently has no employees and the property currently contains a single family dwelling. The application indicates they would like to occasionally park a box truck on the property. At minimum, 3 parking spaces are required for the home based business and dwelling unit. Based on staff’s site visit and site plan, there is adequate parking in the existing driveway.
 - E. *The home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic would not be increased by more than sixteen (16) vehicle trips all day.*
 - The insulation storage would generate no more than 6 vehicle trips per month which is less than the applicable traffic threshold for home occupations.

- The applicant will submit an affidavit stating the home occupation will comply with this criterion.

F. No home occupation shall generate as a by-product for disposal or cause to be dumped any hazardous waste including chemicals and cleaners, other than the volume and types that would be normally generated by a typical single-family home.

- The insulation storage is not expected to produce any hazardous waste other than the volume and type that would normally be generated by a typical single-family home.
- The applicant will submit an affidavit stating the home occupation will comply with this criterion.

G. No home occupation shall cause an increase in any one or more utilities so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.

- The applicant will submit an affidavit stating the home occupation will comply with this criterion.

V. SUMMARY OF FINDINGS

1. The site appears suitable for the home occupation because the existing structures meet applicable lot size and dimensional requirements, and it appears to have adequate access via a paved county collector road.
2. The parking, traffic circulation, and open space, appears to be adequate for the proposed use because the gravel parking area appears to meet applicable parking standards, allow for adequate traffic circulation, and has adequate open space.
3. The signage and lighting on the subject property appear adequate because the applicant is willing to adhere to Flathead County zoning regulations regarding signage and lighting.
4. There appears to be adequate availability of sewer, water and storm drainage for the proposed use because the property will be serviced by individual on-site septic and water systems and storm water run-off will be managed on-site.
5. The proposed use appears to have acceptable impacts on streets, and police and fire protection because the Creston Fire Department and Flathead County Sheriff could provide services to the subject property with an acceptable response time and the property is accessed by LaBrant Road.
6. The immediate neighborhood impact from the proposed use is acceptable because the proposed facility will not create excessive traffic, noise, vibration, dust, glare, heat, smoke, fumes, gas or odors other than those typical of a residential area.
7. The proposed hours of operation for access to the shop for insulation equipment are not anticipated to negatively impact the neighborhood because the hours of operation for insulation equipment delivery would be limited between 8:00 am and 5:00 pm.

VI. CONCLUSION

Upon review of this application, the request to allow for conditional use permit for a 'home based business' on the subject property is generally supported by the review criteria and the Findings of Fact listed above. Should the Flathead County Board of Adjustment choose to adopt staff report FCU-16-09 as Findings of Fact and approve the conditional use permit, the

following conditions would ensure compliance with the review criteria and appropriate measures to mitigate impacts:

VII. CONDITIONS OF APPROVAL

1. The 'home based business' on the subject property shall be in substantial conformance with the application materials and site plan as submitted and approved by the Board of Adjustment and modified by the conditions below [FCZR Section 2.06.010].
2. The applicant shall provide an affidavit stating the home based business will comply with the criteria outlined in FCZR Section 5.06.020.
3. Changes or modifications to the approved use or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment [FCZR Section(s) 2.06.010 and 2.06.020].
4. All fencing installed on the property shall be in compliance with Section 5.04 of the Flathead County Zoning Regulations.
5. Current and future lighting installed on the property shall be in compliance with Section 5.12 of the Flathead County Zoning Regulations.
6. All structures shall be located in accordance minimum setback requirements for structures of the LaBrant-Lindsey Lane zoning district, pursuant to Section 3.39.040 of the Flathead County Zoning Regulations.
7. The applicant shall provide 2 parking spaces for the one-family dwelling as required under Section 6.02.010 and 1 space per 2 employees on maximum shift, per Section 6.10.020 of the Flathead County Zoning Regulations.
8. The home occupation shall not generate pedestrian or vehicle traffic in excess of that which is characteristic of the neighborhood in which it is located. Vehicle traffic shall not be increased by more than sixteen (16) vehicle trips all day, per 5.06.020(E).
9. Hours of operation, including times of delivery shall not exceed normal business hours and shall occur between 8:00 am and 5:00 pm.
10. The conditional use permit shall terminate twelve (12) months from the date of authorization if commencement of the activity has not begun, unless the applicant can demonstrate and maintain a continuous effort in good faith in commencing the activity. [FCZR Section 2.06.060].
11. At the end of 12 months from the date of authorization of this permit staff will inspect to verify compliance [FCZR Section 2.06.060].

Planner: KN